

STATE OF COLORADO

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Department of Regulatory Agencies

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April 21, 2004

EX PARTE

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

RE: In the Matters of *Implementation of the Subscriber Carrier Selection Changes Provisions to the Telecommunications Act of 1996*, CC Docket No. 94-129, and *2000 Biennial Review – Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, CC Docket No. 00-257.

Dear Ms. Dortch:

| Please incorporate this ex-parte communication in the record in the above referenced dockets and associated with Qwest Corporation's and Qwest Long Distance Corporation's (collectively "Qwest") Petition for Waiver filed on April 21, 2004.

This letter is to advise the Federal Communications Commission ("FCC") that the Colorado Office of Consumer Counsel ("Colorado OCC") supports the Petition for Waiver filed by Qwest. The Colorado OCC is the state agency that represents utility consumers' interests before the Colorado Public Utilities Commission ("Colorado PUC") and federal agencies including the FCC.

Omnetrix International, Inc. ("Omnetrix") filed an application ("Application") with the Colorado PUC stating that for financial reasons, it intended to exit the telecommunications market in Colorado. Omnetrix's customers, totaling approximately 1250 mostly residential customers as of the filing of its Application, no longer had access to a customer service representative, and therefore, could not make changes to their telephone service or resolve any service related issues. Further, Omnetrix informed the Colorado PUC that for reasons of non-payment, Omnetrix had been put on notice by its wholesale providers that disconnection of their wholesale service, including long-distance resale, was imminent. Thus, not only were customers unable to have

their telecommunication needs serviced, but they faced the very real possibility of being without dial tone.

As a result of the dire circumstances surrounding Omnetrix and its customers, and recognizing that the customers were the ones suffering as the result of Omnetrix's financial troubles, the Colorado PUC approved an expedited transition plan whereby Qwest was designated the default provider and ordered to transition the Omnetrix customers to its service, immediately. This transition plan was filed jointly by Omnetrix, the Colorado OCC, and the Colorado PUC Staff. In issuing such an extraordinary decision, the Colorado PUC waived certain Colorado rules including slamming and other notice provisions. Of paramount concern to the Colorado OCC was ensuring continuity of local phone service for Omnetrix's customers.

The Colorado OCC supports Qwest's petition as it is consistent with the waivers sought by our office and granted by the Colorado PUC, it provides immediate relief to Omnetrix's customers who would otherwise be without assistance on their telecommunications needs, and it eliminates the likelihood that any customer will be without dial tone.

Sincerely,

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